Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Local Exchange Carriers' Rates	)	
Terms, and Conditions for	)	CC Docket No. 94-97
Expanded Interconnection Through	)	Phase I
Virtual Collocation for	)	
Special Access and	)	
Switched Transport	)	

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MCLEOD TELEMANAGEMENT, INC.
OPPOSITION TO U S WEST DIRECT CASE

McLeod TeleManagement, Inc. ("McLeod"), by its undersigned counsel and pursuant to the Common Carrier Bureau's ("Bureau") *Designation Order*,[1] hereby respectfully submits its Opposition to U S West's Direct Case filed in response to the Bureau's directive. As discussed below, despite U S West's claims, it does currently offer special and switched access services that are directly comparable to its virtual collocation services. The cost data filed with such services demonstrates that U S West has employed excessive and unreasonably discriminatory loading factors in establishing its virtual interconnection rates. The Bureau, therefore, should order further reductions in U S West's virtual interconnection rates and charges.

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[1] *Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport*, Order Designating Issues for Investigation, CC Docket No. 94-97, DA 95-374 (released February 28, 1995) (*Designation Order*).

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I. INTRODUCTION

McLeod, founded in 1993, is a relatively small competitive carrier providing local and long distance communications services to business customers primarily in Illinois and Iowa. McLeod aggregates services and facilities provided by local exchange carriers ("LECs") and interexchange carriers ("IXCs") and provides its business customers with enhanced telecommunications services, including a single point of contact for all of a customer's telecommunications needs. McLeod is a direct competitor of U S West -- both as a reseller/aggregator and, in the near future, as a facilities-based local exchange competitor -- and also seeks interconnection to LEC facilities. McLeod, therefore, has a vital interest in ensuring that the rates, terms and conditions contained in U S West's virtual interconnection tariff are reasonable and nondiscriminatory. As evidenced below, U S West's virtual collocation rates are excessive, unreasonable and discriminatory.

II. U S WEST'S CLAIM THAT NO SERVICES ARE COMPARABLE TO ITS EXPANDED INTERCONNECTION SERVICE MUST BE REJECTED

A. *SHARP: A Comparable Service*

U S West claims that it does not offer any services that are "comparable" to its expanded interconnection services.[2] This claim merely serves as a smokescreen for U S West to impose unreasonable and discriminatory rates upon interconnectors while attempting to avoid its obligation to provide justification for such rates. As demonstrated below, U S West's Self-Healing Alternate Route Protection ("SHARP") service is analogous

[2] U S West Direct Case at 4.

to virtual collocation arrangements and a cost comparison between the two services reveals discriminatory rate/cost ratios.

In its *Tariff Review Plan Order*, the Bureau directed the LECs to provide overhead loadings for all "comparable services."[3] In determining what constituted a "comparable service," the Bureau held that the DS1 and DS3 virtual collocation services are comparable to all point-to-point DS1 and DS3 services. The Bureau explained that these comparable DS1 and DS3 services "are not limited to the [LECs'] generic electrical or optical services . . . [and] include *discounted volume and term services*; channel termination services; interoffice services comprised of channel terminations and channel mileage; and any specialized service offerings, *e.g. self-healing networks*."[4]

In its *Designation Order*, the Bureau required the LECs to identify both unit investment amounts and disaggregated annual cost data for DS1 and DS3 virtual collocation services and for comparable DS1 and DS3 services with the lowest overheads.[5] In requesting this data for cost comparison purposes, the Bureau made it clear that such comparable services should use the "same unit investment components and annual cost factors."[6]

3/ *Ameritech Operating Companies*, Order, CC Docket No. 94-97, DA 94-1421 (released Dec. 9, 1994) (*Suspension Order*).

4/ *Commission Requirements for Cost Support Material to be Filed with Virtual Collocation Tariffs for Special Access and Switched Transport*, 9 FCC Rcd 5679, 5682 (1994) (emphasis added).

5/ *Designation Order* ¶ 17(b).

6/ *Id.* ¶ 16.

In their Direct Cases, a majority of the LECs concede that their high capacity DS1 and DS3 services are comparable to their virtual interconnection services for the purposes of the Bureau's analysis. U S West, however, takes an opposite position and claims that none of its tariffed services are comparable to expanded interconnection.[7] Specifically, U S West argues that its self-healing fiber ring service, SHARP, is not a comparable service because of "different service provisioning configurations," which U S West neglects to explain. Consequently, U S West has refused to provide the cost data for the SHARP service -- cost data that would reveal that U S West's rates for virtual interconnection are excessive.

Contrary to U S West's claims, the SHARP service serves as an excellent cost comparison to virtual interconnection arrangements, particularly because U S West introduced the SHARP service in 1990 for the purpose of competing directly with the fiber ring networks that competitive access providers ("CAPs") had begun to construct in U S West's operating territory. Furthermore, the SHARP service is provisioned over fully redundant and diverse fiber ring facilities similar to the services provided over CAP networks. In adopting its "comparable services" analysis, the Bureau expressed its concern with LECs assigning high overheads to their collocation services, while assigning low overheads to services against which collocators are attempting to compete.[8] The Bureau has emphasized that it is necessary to compare the costs associated with collocation and competitive services to prevent the LECs from thwarting the Commission's policy of

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[7] U S West Direct Case at 4.

[8] *Suspension Order*, ¶ 22.

promoting competitive entry into the local exchange market. Thus, the similarity of the SHARP service to the DS1 and DS3 virtual interconnection service and the competitive nature of the SHARP service make it an ideal "comparable service."

The cost data provided by U S West when the service was introduced in 1990 clearly demonstrates that the introductory SHARP rates had lower rate/cost ratios than U S West's virtual interconnection rates. Using U S West's ARMIS data, the Bureau ordered U S West to apply a rate/cost ratio of 1.40 for U S West's DS1 interconnection cross-connects, resulting in a currently effective DS1 cross-connect rate of $17.22 (corresponding to a per-unit monthly cost of $12.28).[9] In contrast, cost data reveal a rate/cost ratio of 1.07 for U S West's SHARP DS1 channel terminations taken on a month-to-month basis.[10] This result is even more egregious when compared to U S West's proposed rate of $21.00 for a DS1 cross-connect, which resulted in a rate/cost ratio of 1.71, before it was substantially reduced by the Bureau. As the SHARP cost data make clear, the Commission should prescribe collocation rates for U S West based on a maximum rate/cost ratio of 1.07. U S West should not be permitted to hide behind its assertion of a lack of comparable services as a means to avoid its obligations to establish fair and reasonable virtual collocation rates.

9/ *See* U S West Direct Case, Appendix A - TRP1TOT.XLS at 1.

10/ U S West Tariff FCC No. 1, Transmittal No. 80, issued June 4, 1990, Section 3.3, Workpaper 1 at 1. Significantly, the ratios for SHARP channel terminations taken for long-term commitments are lower, with the longest term rates falling below U S West's identified costs.

B. *Volume and Term Discounts: Comparable Services*

In adopting its "comparable services" analysis, the Bureau recognized that when making DS1 and DS3 service comparisons, discounted volume and term rate structures also should be considered.[11] A comparison of U S West's discounted high capacity service cost data with its virtual collocation data demonstrates that the failure to take volume and term discounted rates into account results in excessive charges for virtual interconnection. For example, in 1991, U S West introduced a discounted rate structure that offered customers up to 36 DS3 circuits for term commitments of up to 10 years.[12] U S West employs significantly lower annual cost factors for maintenance, depreciation, and administrative overheads for its discounted DS3 service offerings than for its virtual interconnection service.

A comparison of this data yields the following results: 1) for depreciation, compare the interconnection overhead of 0.1080 to the DS3 overhead of 0.1061; 2) for maintenance, compare the interconnection overhead of 0.0214 to the DS3 overhead of 0.0151; and 3) for administration, compare the interconnection overhead of 0.0227 to the DS3 overhead of 0.0139.[13] As a result of this disparate application of overheads, U S West identified monthly unit costs for its discounted DS3 service as low as $23.53, compared with monthly unit costs of $43.49 for its DS3 cross-connect rate element. U S West's discriminatory treatment demonstrates a preference for customers of its discounted DS3 service over

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11/ *See Tariff Review Plan Order*, at 5682.

12/ U S West Tariff F.C.C. No. 1, Transmittal No. 222, issued Dec. 31, 1991.

13/ *Compare supra* note 9 *with supra* note 12.

collocators. These discriminatory and unreasonable tariffing practices can be alleviated by applying the same ratemaking practices to both discounted high capacity services and virtual interconnection services.

As demonstrated above, discounted volume and term services must be considered in order to make a proper "comparable services" analysis. Such a consideration is necessary to harmonize the rates for comparable, competitive services and to promote the Commission's competitive policy goals by appropriately reducing the rates for expanded interconnection. The Commission should therefore prescribe volume and term discounted rate structures for U S West's virtual collocation service that offer collocators the same level of discounts that are offered to U S West's preferred customers.

III. CONCLUSION

As demonstrated above, U S West has employed excessive and unreasonably discriminatory loading factors of rate/cost ratios in establishing its rates and charges for virtual collocation, and has thereby unreasonably inflated the cost of interconnection to aspiring competitors. Such discriminatory tariffing practices only serve to undermine the Commission's competitive policy goals for opening the local exchange market to competition. The Bureau should therefore prescribe reductions in the U S West virtual interconnection rates and charges in accord with the discussion herein.

Respectfully submitted,

Russell M. Blau

Russell M. Blau
Kathy L. Cooper

SWIDLER & BERLIN, Chartered
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007
(202) 424-7500

Attorneys for
MCLEOD TELEMANAGEMENT, INC.

Dated: April 4, 1995

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Certificate of Service

I, William B. Wilhelm, Jr., hereby certify that a copy of the foregoing *Opposition* was sent, on this 4th day of April, 1995, by first class U.S. mail, postage prepaid to the parties listed in the attached service list.

William B. Wilhelm, Jr.

138236.1

KATHLEEN M.H. WALLMAN, CHIEF*
COMMON CARRIER BUREAU
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
ROOM 500
WASHINGTON, D.C. 20554

GERALDINE MATISE, ACTING CHIEF*
TARIFF DIVISION
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
ROOM 518
WASHINGTON, D.C. 20554

JAMES D. SCHLICHTING, CHIEF*
POLICY & PROGRAM PLANNING DIVISION
COMMON CARRIER BUREAU
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
ROOM 544
WASHINGTON, D.C. 20554

INTERNATIONAL TRANSCRIPTION SERVICES*
TARIFF DIVISION
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
ROOM 246
WASHINGTON, D.C. 20554

GAIL POLICY
GTE
1850 M STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20036

WILLIAM D. BASKETT III
THOMAS E. TAYLOR
DAVID S. BENCE
CINCINNATI BELL TELEPHONE
2500 PNC CENTER
201 EAST FIFTH STREET
CINCINNATI, OHIO 45201-2301

JAY C. KEITHLY
UNITED AND CENTRAL TELEPHONE COMPANIES
1850 M STREET, N.W.
SUITE 1100
WASHINGTON, D.C. 20036

W. RICHARD MORRIS
UNITED AND CENTRAL TELEPHONE COMPANIES
P.O. BOX 11315
KANSAS CITY, MO 64112

ROBERT M. LYNCH
DURWARD D. DUPRE
THOMAS A. PAJDA
SOUTHWESTERN BELL TELEPHONE COMPANY
ONE BELL CENTER
SUITE 3520
ST. LOUIS, MISSOURI 63101

KATHRYN MARIE KRAUSE
U S WEST COMMUNICATIONS, INC.
1020 19TH STREET, N.W.
WASHINGTON, D.C. 20036

M. ROBERT SUTHERLAND
RICHARD M. SBARATTA
HELEN A. SHOCKEY
BELLSOUTH TELECOMMUNICATIONS, INC.
4300 SOUTHERN BELL CENTER
675 WEST PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30375

LAWRENCE W. KATZ
BELL ATLANTIC TELEPHONE COMPANIES
1320 NORTH COURT HOUSE ROAD
EIGHTH FLOOR
ARLINGTON, VIRGINIA 22201

MICHAEL S. PABIAN
AMERITECH
ROOM 4H82
2000 WEST AMERITECH CENTER DRIVE
HOFFMAN ESTATES, IL 60196-1025

KATHIE MIKUCKI
ADC
4900 W. 78TH STREET
MINNEAPOLIS, MN 55435

PIPER KENT-MARSHALL
AT&T
4450 ROSEWOOD DRIVE
ROM 5460
PLEASANTON, CA 94588-3050

ALFRED LIPPERINI
NEC AMERICA, INC.
14040 PARK CENTER ROAD
HERNDON, VA 22071

DAVE GRANNELL
RELIANCE COM/TEC
LAW DEPARTMENT
6065 PARKLAND BOULEVARD
CLEVELAND, OH 44124-6106

DENNIS KRAFT
ALCATEL NETWORK SYSTEMS, INC.
1225 NORTH ALMA ROAD
RICHARDSON, TEXAS 75081

BOB ZUCCAIRE
FUJITSU NETWORK TRASMISSION
SYSTEMS, INC.
2801 TELCOM PARKWAY
RICHARDSON, TEXAS 75082

PAUL DEJONGH
NORTHERN TELECOM
4001 EAST CHAPEL HILL - NELSON HIGHWAY
RESEARCH TRIANGLE PARK, NC 27709

DON GUTZMER
TELLABS
4951 INDIANA AVENUE
LISLE, IL 60532

BRIAN CONBOY
JOHN L. MCGREW
MELISSA E. NEWMAN
WILKIE FARR & GALLAGHER
ATTORNEYS FOR TIME WARNER
HOLDINGS, INC.
THREE LAFAYETTE CENTRE
1155 21ST STREET, N.W., SUITE 600
WASHINGTON, D.C. 20036

DON SUSSMAN
REGULATORY ANALYST
MCI TELECOMMUNICATIONS CORPORATION
1801 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

J. MANNING LEE
TELEPORT COMMUNICATIONS
GROUP, INC.
2 TELEPORT DRIVE, SUITE 300
STATEN ISLAND, NY 10311

RICHARD J. METZGER
COUNSEL FOR ALTS
1200 19TH STREET, N.W.
SUITE 607
WASHINGTON, D.C. 20036